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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/368,433	08/05/1999	ROBERT ALAN FLAVIN	YO998-205	5521

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VIENNA, VA 22182-3817

EXAMINER
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HUYNH, SON P

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 12/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

09/368,433

Applicant(s)

FLAVIN, ROBERT ALAN

Examiner

Son P. Huynh

Art Unit

2611

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 05 February 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1-36.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

  
**CHRISTOPHER GRANT**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2600**

Continuation of 3. NOTE: Amendments to the claims such as "...comprises one of switching a sound device of a presentation device to an ON state, switching the sound device of a sound device to an OFF state, witching a display apparatus of said presentation device to an ON state, switching a display apparatus of said presentation device to an OFF state, changing the channel on said presentation device, starting a recording operation, and stopping a recording" in claims 1, 5, 6, 11, 12, 13 change the scope of the claims and require further consideration and search.

Regarding Double Patenting Rejection:

In response to applicant argument of "the claims of the presentation application do not require that the announcements be created by a third party. Thus, the patent claims do not teach that the announcements do not have to be created by a third party" (page 15, paragraph 4). The examiner notes that this limitation is not recited in the claim. In fact, instant claims 1, 5, 6 recite "each of said one or more announcement was created by a party other than a broadcaster of said one or more content streams" (claim 1, lines 9-10, claim 5, lines 4-6, claim 6, lines 4-6); instant claim 11 recites "an analyzer that analyses a content of one or more content streams, wherein said analyzer comprises a party other than a broadcaster of said content" (lines 2-4); instant claim 12 recites "providing an announcement by a party other than a broadcaster of a content stream" (line 2). Patent claim 1 recites "one or more announcement being selectively added to said signal by any of a broadcaster of said signal and a party other than said broadcaster" (patent claim 1, lines 8-11). Thus, the "party other than said broadcaster" as recited in the patent claim 1 read on "a party other than a broadcaster" as recited in the instant claims (particularly, in lines 9-10, claim 1).

With respect to instant claims 18-30, applicant argues the patent claims do not teach or suggest that the announcements be provided on a first communication connection that is separate from a second communication connection that provides a content stream (page 16, paragraph 3). In fact, claims 18-30 recites "receiver section receives said one or more announcement via a first communication connection and wherein said one or more content streams are provided on a second communication connection that is separate from said first communication connection". Patent claim 1 recites "a receiver section for receiving a signal; ...said one or more announcements being selectively added to said signal by any of a broadcaster of said signal and a party other than said broadcaster" (lines 2-11). Thus, it would have been obvious to one of ordinary skill in the art to modify Patent claim to be more specific (for example, with the first communication connection for receiving the signal of the broadcaster from the broadcaster and the second communication connection, separate from the first communication connection, for receiving one or more announcements from a party other than the broadcaster) in order to obtain the instant claims 18-30.

Regarding Prior Art Rejection:

Applicant argue none of the applied references of the content stream teaches or suggests feature, as amended, alternating a presentation comprises one of switching a sound device of a presentation device to an ON state, switching a sound device of said presentation device to an OFF state, ..." (page 17, paragraph 2).

In response, the examiner respectfully disagrees. Logan discloses the audio filter for removing an audio track of a television program to generate an audio-filtered signal that represents the video portion of the television program without the accompanying audio track, or the system also replace the audio track with an alternative audio track (col. 2, lines 39-55). Thus, instead of presentation the video portion with audio track, presentation the video portion without the accompanying audio track broadly read on alternating a presentation comprises switching a sound device of a presentation device to OFF state.

For the reasons given above, rejections on the claims are maintained as discussed in the Final Office action, mailed 10/03/2005..